Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	§	
	§	
	§	RM-9108
MCI COMMUNICATIONS CORPORATION	§	
	§	
Petition for Rule Making re Billing and Collection	§	
Services Provided by Local Exchange Carriers for	§	
Non-Subscribed Interexchange Services	§	

OPPOSITION OF SBC COMMUNICATIONS INC TO REQUEST FOR EXPEDITED ACTION ON MCI RULEMAKING PETITION

Comes now SBC Communications Inc. ("SBC"), on behalf of Southwestern Bell Telephone Company ("SWBT"), Pacific Bell ("Pacific") and Nevada Bell ("Nevada"),[1] and files this Opposition of SBC Communications, Inc. to The Request for Expedited Action On MCI Rulemaking Petition[2] filed by Pilgrim Telephone, Inc. ("Pilgrim"). SBC opposed the original Petition for Rulemaking filed by MCI Telecommunications Corporation ("MCI")[3] and even more strenuously opposes the efforts of Pilgrim to latch onto the docket filed by MCI (and already fully briefed a year ago) to address its disputes with specific LECs in regard to their billing and collection policies.

[1] SWBT, Pacific and Nevada are referred to herein collectively as "SBC" unless otherwise indicated.
[2] Pilgrim purports to file its Request pursuant to Commission Rule 1.405, 47 C.F.R. Section 1.405.
[3] SBC filed its Opposition of SBC Communications Inc. to Petition for Rulemaking of MCI Telecommunications Corporation on July 25, 1997 and its Reply Comments on August 14, 1997. Copies of those pleadings are attached.

In its Petition, MCI failed to provide "sufficient reasons in support of the act[illegible]quested to justify the institution of a rulemaking proceeding" as required by the Commissio[illegible][4] Pilgrim raises no new issues and, thus, has not cured that deficiency. Neither comp[illegible]set forth facts that would justify establishment of a Rulemaking.

While Pilgrim Telephone's petition raises no new issues, SBC would like to [illegible]rate the following points: 1) The Commission deregulated billing and collections in 1986 [illegible]uld not even consider re-regulating services that have been detariffed for twelve years now; 2) The Bell Operating Companies (BOCs) currently providing billing and collection services to Interexchange Carriers (IXCs) do so on a nondiscriminatory basis; non-discriminati[illegible]n requirement of Section 272(c) of the Telecommunications Act; thus; discriminator[illegible]tion of billing and collection services is a non-issue; and 3) The Commission should upho[illegible]cal Exchange Carrier's (LEC) contractual right to terminate billing and collection servi[illegible]hen the carrier refuses to comply with the agreement's terms or the carrier's charges result i[illegible]n unacceptable level of customer complaints.

I. Deregulation of Billing and Collection Services

In 1986, the Commission detariffed billing and collections and substituted [illegible]ition for regulation.[5] The Commission's order recognized that many companies offered [illegible]and collection services and that the LECs should be free to negotiate the terms and co[illegible]under which they would provide billing and collection services, just as did their unregulated

[4] 47 C.F.R. Section 1.407

[5] See, e.g., Detariffing of Billing and Collection Services, Report and Order, 102 FCC 2d, 1150 (1[illegible]para 38.

competitors. Twelve years later there is even more competition in providing billing and collection services than there was in 1986. Numerous clearinghouses, service bureaus, and credit card companies offer billing and collection services. Last year, Visa reported that its telecom revenues exceeded $1.7 billion.[6] In addition, carriers have the option of billing the charges themselves.

Given the level of competition in the provision of billing and collection services today; it is even more clear that there is no need for government regulation of those services. The LEC should have the right to decide what services it will or will not bill, such as services that directly or indirectly refer to sexual conduct, or services that the customer did not order or authorize, without the government regulating such decisions. The LECs should also have the freedom to specify in their contracts the terms and conditions under which they can terminate billing and collection services to a carrier, again without the government regulating and reviewing such decisions.

It appears that MCI's objective was to make an end-run around the contractual negotiation process in order to be able to force the LECs to bill and collect for selected types of long distance calls at the averaged rates established for billing all types of long distance calls. MCI never answered the question of how it was able to do its own billing for some types of calls, but not others. The answer, of course, is that MCI is able, but not willing, to do its own billing for all calls. Where the cost of billing is above average, it will be above average for MCI, as well

[6] Joseph F. Schuler, Charging KWhs and BTUs on Credit, Public Fortnightly, September 15, 1998, pages 28-29.

as for the LECs. If, then, MCI can force the LECs to bill for the higher cost calls at the standard averaged rate previously established for billing all types of calls, MCI will be able to profit from its promotion of that higher cost calling service by having the LECs absorb the higher cost, allowing MCI to reap standard profits. Imposing such a regulatory requirement would send erroneous economic signals to the long distance marketplace, encouraging the IXCs to stimulate "casual calling" because it appears to be more profitable than it really is, since the LECs would be absorbing the higher cost of billing that type of calls. Such result would reintroduce the regulatory distortion of the cost/profit relationship that the Commission is seeking to eliminate through the introduction of competition. MCI sought to force below-market pricing for services it wanted to purchase, but would be the first to complain about such pricing, if it were to be applied to a service for which MCI offered a competing service.

II. BOCs Provide Billing and Collection Services to IXCs on a Non-Discriminatory Basis Already

In its petition, Pilgrim makes a number of groundless and absurd allegations that the BOCs are attempting to drive out competition in the casual calling interexchange market and advocates that the Commission adopt a rule that "the LEC must provide under nondiscriminatory terms and conditions, billing and collection for casual access providers".[7] The Commission has already adopted a non-discrimination rule that applies to billing and collection services. In its Non-Accounting Safeguards Order, the Commission found that the term "services" in Section

[7] Pilgrim Telephone Petition at page 9.

272(c) of the Telecommunications Act included billing and collection services and the BOC must provide billing and collections services to entities competing against the BOC's 272 affiliates on the same terms, conditions, and rates as the BOC provides billing and collection services to its Section 272 affiliates.[8] Pilgrim's concerns that the BOCs will act to advantage their Section 272 affiliates casual access offerings, if any, by the BOC providing more favorable billing and collection terms has already been addressed by the Commission. There is therefore no need for the Commission to open a rulemaking to adopt a non-discrimination rule for application to billing and collection services; the Commission has already adopted such a rule.

In addition, the SBC Telcos are today providing billing and collection services on a nondiscriminatory basis to IXCs. Further, the SBC Telcos will continue to provide billing and collection services on a nondiscriminatory basis to IXCs, once SBC's Section 272 affiliate is authorized to provide in-region interLATA telecommunication services.[9] Thus, Pilgrim's concern that BOCs will terminate billing and collection services to Pilgrim or other carriers to advantage their Section 272 affiliates is unfounded; Section 272 specifically prohibits such action.

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[8] Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, First Report and Order, FCC 96-489, released December 24, 1996, at paras 202, 217.

[9] There are a number of factors that could cause SBC to reconsider whether it wants to continue this line of business, however, including the continued submission of charges not authorized by the end-user customer. If this practice becomes even more widespread than it is today, SBC could conclude that the damage to its reputation and to its customers outweighs the financial value of continuing to provide billing and collection services. If SBC decides to exit the billing and collection business for this reason or other reasons, SBC understands it cannot bill for its Section 272 affiliate.

It is important to note that it is not the LECs that are trying to impose new billing and collection terms and conditions designed to favor their new long distance affiliates. Instead, it is the purchasers of billing and collection services who now want to modify the contract terms for their own advantage. MCI and Pilgrim are seeking to secure those services for selected types of long distance calls, rather than bulk calls of all types as contemplated by existing contracts. Even then, MCI and Pilgrim should have no trouble negotiating a billing and collection contract for those selected types of services, so long as (1) they are willing to pay a compensatory rate for the specialized type of service sought and (2) they are not resorting to cramming or other marketing ploys that cause customer complaints that damage the reputation of not only the carrier causing the problem, but also the carrier who is billing the customer. Pilgrim has not delineated "sufficient reasons" in support of a rule making to justify institution of such a proceeding.

III. The LECs Should Have the Right to Terminate Problem Billers

The LECs should continue to enjoy their right to decide what they will and will not bill, as well as the right to terminate problem billers, which the Commission recognized when it detariffed billing and collections. In offering billing and collection services to carriers and other third parties, SBC has made a number of decisions as to types of charges it will accept for billing and the types of charges it will not bill. SBC has determined that it will not bill for services that directly or indirectly refer to sexual conduct, services that refer to bigotry, racism, sexism or other forms of discrimination, services that are deceptive or take advantage of minors, and gab and chat services. SBC does not want to bill charges not authorized by customers. SBC's billing

and collection contract provisions reflect these decisions and specify that SBC has the right to terminate the contract, if these terms are violated or the carrier's charges result in an unacceptable level of customer complaints. The right to decide what charges are acceptable for billing, what charges are not acceptable for billing, and to terminate for violations of the contract's terms are essential rights to SBC and the other LECs. As Chairman Kennard recently recognized, the charges billed by LECs affect customers' perceptions of the billing company.[10] These decisions and rights should be left to contract between the LEC and the carrier and not subject to government re-regulation and review as advanced by Pilgrim.

It is clear from Section 1 of the Communications Act of 1934, as amended, that FCC regulation is for the purpose of ensuring to all people of the United States access to telecommunications services on a non-discriminatory basis at reasonable prices. Without knowing the full story regarding the cessation of billing and collection services to Pilgrim, the Commission could not know whether reinstatement of billing services to Pilgrim would be beneficial or detrimental to the interests of "all people of the United States."

Companies that provide billing and collection services must retain the right to discontinue billing and collection services to those companies that fail to comply with contract requirements. Companies that provide billing and collection services are the first line of defense against unfair business practices, such as cramming, that cause customer complaints to the billing company and to regulatory agencies. Pilgrim has not established any justification for weakening that first line

[10] Chairman Kennard letter dated April 22, 1998 to Mr. Ed Whitacre.

of defense that serves to protect consumers, as well as the business reputation of the billing company.

Neither MCI, nor Pilgrim, has demonstrated any need for re-regulation of billing and collection services. Certainly, there is no need for the type of re-regulation here sought: regulation that would provide below market pricing and protect problem billers from the consequences of their own actions.

Conclusion

Pilgrim's request that the Commission open a rulemaking with the purpose of re-regulating the LECs' billing and collections services and, in particular, the regulation and review of the LEC's decision to terminate billing and collection services for contract violations should be rejected. Pligrim would not be seeking the re-regulation of LEC billing and collection services, if Pilgrim's services complied with the terms and the conditions of the billing and collection agreements it entered. However, instead of complying with those terms, which are intended to protect the LECs' customers from unauthorized charges and services, Pilgrim has elected to complain to the Commission that they do not like those standards and the Commission should replace the LECs' billing and termination standards with billing and termination standards more to Pilgrim's liking. The Commission should not sanction efforts to replace negotiated contractual standards with standards, unilaterally proposed by billing and collection customers, including in all likelihood problem billers. Instead, the Commission should take no action

leaving Pilgrim and other companies that wish to secure billing and collection services from the LECs to comply with the terms and conditions of the LECs' billing and collection contracts.

Pilgrim purports to file this pleading pursuant to Rule 1.405, but there is no provision in that rule that would allow this pleading. Pilgrim filed its Comments and Reply Comments a year ago. Section 1.405(c) provides that "No additional pleadings may be filed unless specifically requested by the Commission or authorized by it." Although Pilgrim requests authorization for its pleading in a footnote, it does not bring anything new to the table, other than the factual statement that GTE is no longer billing for Pilgrim. That fact standing alone will not even support authorization for the filing of the pleading, much less the Commission action sought by Pilgrim. The Commission should deny authorization for Pilgrim's filing under §1.405(c) and treat the pleading as an *ex parte* presentation, if it recognizes the filing at all.

Respectfully Submitted,

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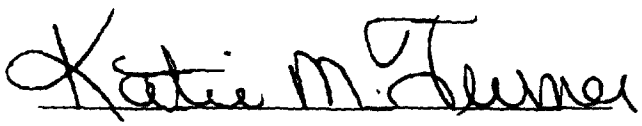
October 8, 1998

CERTIFICATE OF SERVICE

I, Katie M. Turner, hereby certify that the foregoing, " OPPOSITION OF SBC COMMUNICATIONS INC. TO REQUEST FOR EXPEDITED ACTION ON MCI RULEMAKING PETITION" in RM No. 9108 has been filed this 8th day of October, 1998 to the Parties of Record.



Katie M. Turner

October 8, 1998

ATTACHMENT 1

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
MCI TELECOMMUNICATIONS CORPORATION	)	RM No. 9108
Billing and Collection Services Provided By Local Exchange Carriers for Non-Subscribed Interexchange Services	)	

OPPOSITION OF SBC COMMUNICATIONS INC. TO PETITION FOR RULEMAKING OF MCI TELECOMMUNICATIONS CORPORATION

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July 25, 1997

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By Local Exchange Carriers for Non-Subscribed	)	
Interexchange Services	)	

OPPOSITION OF SBC COMMUNICATIONS INC.
TO PETITION FOR RULEMAKING
OF MCI TELECOMMUNICATIONS CORPORATION

SBC Communications Inc. ("SBC"), on behalf of Southwestern Bell Telephone Company ("SWBT"), Pacific Bell ("Pacific") and Nevada Bell ("Nevada"),[1] opposes the Petition for Rulemaking ("Petition") filed by MCI Telecommunications Corporation ("MCI") in the above-referenced matter.[2] As explained in more detail below, MCI's Petition should be denied because it does not disclose "sufficient reasons in support of the action requested to justify the institution of a rulemaking proceeding," as is required by the Commission's rules.[3]

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[1]SWBT, Pacific and Nevada are referred to herein collectively as "SBC" unless otherwise indicated.

[2]MCI filed its Petition pursuant to Commission Rule 1.401, 47 C.F.R. Section 1.401. Petition, at 1.

[3]47 C.F.R. Section 1.407.

I. SUMMARY

MCI claims Commission action is required to establish two points advanced by MCI: (1) a LEC which may choose to terminate providing billing and collection services to unaffiliated "casual calling"[4] providers should not be permitted to provide these services to its affiliates that provide casual calling to end users; and (2) a LEC should not be permitted to provide billing and collection services to such affiliates on terms more favorable to those extended to non-affiliates. However, there is no reason why the Commission should address these matters at all, and several reasons why it should not.

The billing and collection services marketplace, as well as firmly-established and measured regulatory approaches regarding such services, already provide MCI all that it needs to offer its customers casual calling services, and to bill and collect for them. SBC did not push MCI into the casual calling market. MCI alone decided to enter and exploit that business opportunity as a part of its overall long distance business plans. Having made that business decision, there is no reason why the Commission should re-regulate billing and collection services rendered in the casual calling sector of the long distance market. These services have been detariffed for over ten years[5] and should remain free of regulation. In short, MCI alone must bear the costs of its unilateral decision to aggressively market its 1-800-COLLECT, 10XXX, and other casual calling campaigns. This is particularly so if, as all

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[4] I.e., calls made on other than a presubscribed or "PIC'd" basis.

[5] Detariffing of Billing and Collection Services, Report and Order, 102 FCC 2d 1150 (1986) ("Detariffing Order").

indications suggest. MCI should continue in the future to "take back" from the LECs its PIC'd (and perhaps other) billing and collection business.[5]

In addition, SBC's tariffed Billing Name and Address information ("BNA") already provides MCI with the information it needs to perform its own billing and collection functions. MCI's multiple criticisms of the Commission's various BNA orders and the LECs' effective BNA tariffs are not justified by the facts. Rather, they represent erroneous, belated and collateral attacks on these orders.

Finally, from the perspective of the Telecommunications Act of 1996 ("Act"), the Commission surely need not gear up for a rulemaking so as to preserve any competitive equities between MCI and SBC's eventual Section 272 affiliate. Section 272(c)(1) already ensures that any billing and collection services that would be made available by a BOC to its Section 272 affiliate providing interLATA telecommunications services would likewise have to be made available to other IXCs (including MCI) at the same rates, and at the same terms and conditions. As MCI itself concedes, "enforcement actions are sufficient at present to secure IXC statutory rights."[7]

Accordingly, MCI's Petition should be denied in all respects. The Petition presents insufficient reasons that warrant the Commission's initiating a rulemaking on either of the points MCI advances.

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[6]MCI claims that casual calling represents "approximately $11.6 billion in gross revenues in the $75 billion long distance market in 1996," i.e., about 15%. Petition, at 1.

[7]Petition, at 15.

II. MCI SHOULD BE REQUIRED TO ADDRESS SEVERAL IMPORTANT ISSUES BEFORE ANY SERIOUS CONSIDERATION IS GIVEN TO INITIATING A RULEMAKING PROCEEDING.

The intent of MCI's Petition is straightforward. Though cloaked in public interest considerations (e.g., references to a consumer's desire to call 1-900-THE POPE),[8] the Petition in actuality is less altruistic. It essentially asks that the Commission initiate a rulemaking that would force LECs to provide the billing and collections associated with MCI's casual calling line of business. Yet, MCI offers no facts or sufficient policy reasons to support this request, only conjecture.

MCI fails to specifically and fully explain: (1) why MCI's own systems and operations, which already engage in billing and collections, cannot be effectively utilized for its casual calling market;[9] (2) why MCI's costs for LEC billing and collections for casual calling are excessive (and, in fact, they are not); (3) why LECs should be forced to bill and collect for MCI's casual calling business at subsidized prices even as MCI "takes back" from the LECs its PIC'd billing and collection business (to foster the MCI One, one-stop image); (4) why SBC should be forced to subsidize the costs of billing and collections work associated with MCI's losses due to toll fraud and other uncollectibility factors (notwithstanding MCI's vigorous TV, radio, print and other casual calling advertising

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[8]Petition, at 3.

[9]In this connection, MCI could discuss any business or regulatory reasons why British Telecommunications P.L.C., which may merge with MCI and is the "dominant LEC" in England, does not provide billing and collection services to casual calling services providers, nor is it required to do so.

campaign[10] (5) why the Commission should not require that MCI comply with the Commission's several BNA Orders, or at least, why the BNA that MCI may need for billing and collection is not realistically available to it; and (6) how the Telecommunications Act of 1996 (the "Act"), which ensures that any billing and collection services that BOCs may provide to their Section 272 affiliates must be provided to non-affiliates on a nondiscriminatory basis, does not already sufficiently protect any legitimate competitive concerns MCI may have.

Unless MCI can provide these and other details, the Commission's and LECs' resources should not be wasted in providing MCI a potential route to foist upon LECs and their billing and collections customers MCI's own costs of conducting a very lucrative business that MCI alone determined to enter and exploit.

III. NO ONE SHOULD BE REQUIRED TO SUBSIDIZE MCI's PLANS TO BILL FOR ITSELF 1+ CALLS, BUT NOT "CASUAL CALLING" CALLS.

A. The Current System Has Served Well In A Detariffed Environment.

There is no quarrel with the proposition that some uncollectibility concerns are present in the casual calling market. It may safely be assumed that the collective costs associated with customer inquiries directed to LECs, instances of fraud, bill rendering, treatment and collection efforts, and bad debt are higher in the casual calling market than in the PIC'd market.

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[10]SBC fully appreciates that collect and third number calls are made from time to time by low to moderate income households; however, the focus of this matter is, in reality, a broad based marketing and advertising campaign emphasizing the features of MCI's casual calling services, particularly its 10XXX and 1-800-COLLECT services.

Though MCI discusses its concerns generally, nowhere does it explain why their presence requires that the Commission turn back the clock and re-regulate billing and collection services so that LECs, not MCI, are saddled with the obligation to "treat and collect" MCI's casual calling customers. There is simply no logical reason why the Commission should intervene in this matter, particularly where, as here, the parties have negotiated satisfactorily by contract for many years and MCI has various options available to it.

SBC's subsidiaries offer billing and collection service for message billing in a manner that does not distinguish between PIC'd and non-PIC'd calls. For example, SWBT's various pricing plans are based solely upon an individual customer's total toll messages billed, regardless of the type of message. Similarly, Pacific's rates, terms and conditions do not distinguish between PIC'd and non-PIC'd calls billed through its message billing platform. This allows both large and small billing and collection customers to choose a service that is most economical and attractive to them, regardless of the long distance calling "sector" they may serve.

SWBT has offered various rate plans as well. Originally, SWBT offered rates which differed depending upon the term to which the customer chose to commit (1, 3 or 5 years). In the late 1980s, however, SWBT added two other rate plans offering a "volume discount" (a volume of messages commitment expressed as a percent of a customer's messages billed through SWBT as against all customer messages).

Under one version of the volume discount arrangement, where a customer elected to submit 90% of its messages regardless of type (whether 1+, 10XXX, third number, collect or

calling card). SWBT provided a discounted price. This version was negotiated with MCI, and MCI became SWBT's first contracted customer under this arrangement.

The second version of the volume discount arrangement allowed for a range of message volume commitments at various rates. The pricing scale differed, depending on commitments of 40%, 60%, 70%, 80% or 90% of total customer billings. This version was discontinued because there was no demand for it.

In March, 1997, SWBT modified its contract form to offer two pricing options: a discount 3-year pricing plan (with a message volume discount pricing arrangement), and a standard 3-year pricing plan (with pricing not based on any required message volumes). New rates, and the 85% volume discount, become effective in January, 1998, and are available to all IXCs, including MCI.[11]

As shown above, SBC's billing and collection plans for IXCs have a fundamental characteristic: prices that are not dependent on type of call (whether PIC'd v. non-PIC'd). SBC does not isolate one type of call's cost and provide a price more or less than another type. This has been the case since divestiture, so that throughout this period an averaged price has been the basis for the billing and collection of long distance calling services, whether PIC'd or non-PIC'd. SBC views its billing and collections arrangements as preferable because it does not believe that pricing plans offered to a full toll service carrier (which may offer 1+, 10XXX and other services) should be more advantageous than plans offered to a carrier offering less than a full complement of toll services. This also reflects marketplace

[11]In a meeting with the Enforcement Division earlier this year, SBC provided a copy of its billing and collection contract to John Mulera, Chief of the Enforcement Division.

demand, because customers also want standard or discounted rates for billing and collecting all of their toll messages, regardless of the type of messages.

The determination to offer a discounted price for an 85% volume commitment reflects the need to establish a large enough message/end user base to arrive at a fair, average-priced billing and collection service. Should any customer desire services for less than 85% of all of their messages (or even only one or more types of call messages that would have the same effect), they are free to do so under the standard rate plan. This plan is designed to recover the higher costs to provide billing and collection services on a non-volume commitment basis.

Heretofore, the arrangements which have prevailed have been largely acceptable to both billing and collection service customers. This is so because, as the Commission envisioned over ten years ago, competition has been effectively substituted for regulation in this market.[12]

B. **MCI's Plan, If Successfully Executed, Will Drive Up Casual Calling Prices That Would Adversely Impact Casual Callers and IXCs Other Than MCI Who Specialize In That Niche Market.**

The Commission should appreciate the significance of certain marketplace events that may well unfold:

- MCI eventually will "take back" its 1+ billing and collection business from the LECs (major IXCs, including MCI, already have internal billing systems and directly bill and collect from their large/medium business customers and

[12]See, e.g., Detariffing Order, at para. 38 ("[W]e conclude that detariffing will enhance competition in the billing and collection market by giving LECs the flexibility in structuring and pricing their offerings.").

selective small business and residential customers: a reduction in MCI's billing and collections with SBC is already occurring).[13]

- If MCI's Petition is successful, MCI will not take back its casual calling billing and collection business (including 10XXX, 1-800-COLLECT, etc.).
- If MCI's Petition is successful, LECs may not be able to negotiate its billing and collection contracts.

However, the "average" pricing arrangement previously supported by sufficiently high message volume commitments will crumble if 1+ messages are eliminated from the mix of all message volumes billed and collected by the LECs. This will result from the MCI One (a/k/a "one-stop") marketing program because MCI's own PIC'd customers will receive bills only from MCI, not SBC. However, MCI fails entirely to identify how consumers and niche toll competitors will be affected. It is not difficult to see this either.

As LECs are left with messages comprised of casual calling calls, but little if anything else, the averaged prices that have prevailed for many years cannot and will not be sustained. Two options will be presented to LECs: they must either refuse to perform billing and collection services at below-cost pricing, or they must be provided with sufficient contractual assurances of compensation over costs in order to continue offering these services. From SBC's perspective, no other options appear viable.

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[13] See, Billing World, October, 1996 at 17-18 ("MCI, like most major IXCs, bills its commercial customers directly" and "very little had to change for their billing systems to take-back the bill.") & Austin American Statesman, August 1, 1996, at D1-2 ("Eventually, [an MCI spokesperson said], all customers will get a single MCI bill."), attached hereto as Attachments 1 and 2, respectively. Comparing the first six months of 1997 to the same period during 1996, MCI's PIC'd billings through SBC have decreased 20% while its casual billings have increased 5%.

Assuming the second option occurs, competition in the interexchange market will suffer. Higher costs may be passed on to all billing and collection customers, but most certainly those who provide casual calling services exclusively. These providers are IXCs that specialize in that market either on a voluntary basis or perhaps due to market realities over which they have no control. Smaller IXCs are sometimes unable to woo PIC'd customers to the same extent as large IXCs with sufficient finances to stage national, multi-media advertising campaigns. Further, the public interest will be compromised.' The higher costs associated with LEC billing and collection of casual calls will ultimately fall on users of casual calling services. Finally, the LECs will be stripped of the opportunity to make the business decisions they have a right to make. This would be particularly unfortunate because MCI, as the true cost-causer, would evade the business obligations that accompany the unilateral marketing decision it has made.

In sum, MCI's Petition should be denied outright for the foregoing reasons and those expressed elsewhere herein. Importantly, before the Commission gives any consideration to initiating the rulemaking MCI seeks, MCI should be required to specifically answer why its own billing systems and other internal operations already in place do not afford MCI a sufficiently viable billing and collection vehicle for its casual calling customers (or why any necessary enhancements to them, if applicable, could not provide that vehicle). Furthermore, MCI should be required to answer all of the above several contractual, costing, business, and regulatory/public interest issues. In the meantime, the Commission and public interest would be better if the Commission rejects MCI's Petition.

IV. BNA ALREADY PROVIDES MCI WHAT IT NEEDS TO BILL FOR ITS CASUAL CALLING SERVICES AND MCI SHOULD BE MADE TO COMPLY WITH THE COMMISSION'S ORDERS REGARDING BNA.

MCI's discussion related to Billing Name and Address information ("BNA") is distorted and unjustified by the facts. The Commission should require, before it determines whether to initiate a rulemaking, that MCI clearly show that its access to the LECs' BNA is insufficient to allow it to bill and collect for casual calls. That showing has not, and cannot, be made.

MCI claims that current BNA rates "are largely unreasonable and bear no relationship to the LECs' actual costs in providing this service."[14] It also claims that it remains unclear under current rules that BNA has to be provided for most 10XXX calling.[15] Finally, MCI complains that various restrictions on BNA use serve to multiply IXC billing costs.[16] These claims and complaints misrepresent the facts in several respects.

First, MCI provides no specific data to support its claim of unreasonable BNA rates. To the contrary, SWBT's and Pacific's rates are reasonable and, to our knowledge, MCI has never successfully argued otherwise to the FCC.

As the Commission will recall, only four years ago it determined to improve IXCs' ability to perform their own billing and collection functions associated with calling card.

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[14]MCI PFR, at 8.

[15]Id.

[16]Id.

collect and third party calls. The Commission reasoned that such an improvement would facilitate the growth of competition in the market for billing and collection services.[17]

As a result, the Commission currently requires LECs to tariff BNA associated with calling card, third party and collect calls. This tariffing enables telecommunications service providers like MCI to perform their own billing and collection, thus further encouraging the development of competition in that market.[18] Further, LECs are required to provide IXCs with BNA concerning customers who have presubscribed to that IXC.[19] The Commission has concluded, however, that BNA information other than that associated with calling cards, third party and collect calls is not necessary to encourage the development of competition in the billing and collection market. Thus, LECs are not required to provide this BNA information under tariff.[20]

Following the BNA Order, in September 1993, SWBT filed its proposed BNA tariff. That transmittal proposed a BNA Usage Rate of $1.00 per 10-digit ANI request.[21] MCI did not object to this rate, as it did not file any petition to reject or even suspend the transmittal. The $1.00 rate, and other BNA rates, terms and conditions, were allowed to go into effect.

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[17]Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, CC Docket No. 96-115, Notice of Proposed Rulemaking, 6 FCC Rcd 3506 (1991) ("First Notice"), at n. 13; Second Report and Order, 8 FCC Rcd 4478 (1993) ("BNA Order"); Second Order on Reconsideration, 8 FCC Rcd 8798 (1993) ("Second BNA Recon Order") at para. 17; Third Order on Reconsideration, FCC 96-38, released February 9, 1996 ("Third BNA Recon Order") at para. 34.

[18]Third BNA Recon Order, at para. 38.

[19]Id.

[20]Id.

[21]SWBT's Transmittal No. 2296, filed September 8, 1993.

MCI likewise did not object to Pacific's and Nevada's transmittals, and they too were allowed to go into effect. These companies' tariffed BNA rates are currently $.80.[22]

In February, 1994, SWBT and Pacific filed their proposed "unlisted" BNA tariffs. At that time, SWBT also proposed to reduce its per-query rate from $1.00 to $.80.[23] MCI filed a petition to reject or, alternatively, to suspend and investigate these and other BNA tariff proposals. However, while complaining of a range of items, including the limited uses for which the Commission had allowed BNA, MCI presented no objection whatsoever to the specific rates or costs associated with any of the LECs' BNA tariffs.[24] The Bureau allowed these tariff filings to take effect over MCI's several objections.[25]

Finally, in April of this year, SWBT again sought to reduce its per-query rate, dropping the price to $.30 per query.[26] MCI filed no objection, and the tariff was allowed to go into effect.

These multiple effective BNA tariff approvals, including approvals of the rates reflected in the underlying tariffs -- and further, MCI's failure to challenge these rates -- convincingly demonstrate the reasonableness of SWBT's, Pacific's and Nevada's BNA rates.

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[22]Pacific's Transmittal No. 1675, filed January 4, 1994; Nevada's Transmittal No. 188, filed January 4, 1994.

[23]SWBT's Transmittal No. 2334, filed February 23, 1994, Pacific's Transmittal No. 1698, filed February 23, 1994; Nevada's Transmittal No. 192, filed February 23, 1994.

[24]NYNEX Telephone Companies Tariff F.C.C. Tariff No. 1, Transmittal No. 279; MCI Petition to Reject or, Alternatively, to Suspend and Investigate, filed March 10, 1994.

[25]Billing Name and Address Tariffs of Local Exchange Carriers For Subscribers with Unlisted or Nonpublished Telephone Numbers, Order, DA 94-400, released April 22, 1994.

[26]SWBT's Transmittal No. 2624, filed April 4, 1997.